

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

TONY FRENCH,

Plaintiff,

2:15-cv-02431-CL  
2:15-cv-02432-CL  
2:15-cv-02433-CL  
2:15-cv-02435-CL  
2:15-cv-02436-CL

v.

FINDINGS AND  
RECOMMENDATION

CAPTAIN TURNER,  
et al.,

Defendants.

CLARKE, Magistrate Judge.

By Order entered January 11, 2016, each of the above caption complaints was dismissed for failure to comply with the minimal pleading requirements of the federal rules and failure to state a claim. The minimal pleading standards of the federal rules were set forth in the court's order in detail.

Plaintiff was allowed 30 days to file amended complaints consistent with the pleading requirements explained in the court's order.

Plaintiff has filed amended complaints as directed by the court. However, plaintiff's amended complaints fail to correct the deficiencies that led to the dismissal of the original complaints.

For the most part, plaintiff's amended complaints are illegible. However, in 2:15-cv-2431-CL the court is able to discern an allegation that a corrections officer threatened him and "slammed the razor mirror against the door in a threatening manner to assault me." Plaintiff's other claims also appear to be based on allegations that defendants made verbal comments to him and "slapped" or "banged" his cell door.

The United States Constitution does not impose liability for verbal harassment. Oltarzewski v. Ruggiero, 830 F.2d 136, 139 (9<sup>th</sup> Cir. 1987); Guat v. Sunn, 810 F.2d 923, 925 (9<sup>th</sup> Cir. 1987). In the Ninth Circuit, the PLRA "requires a prior showing of physical injury that need not be significant but must be more than *de minimis*."

In this case, plaintiff does not allege any physical injury and his claims appear to be based on mere verbal harassment - which fails to state a constitutional claim as a

matter of law.

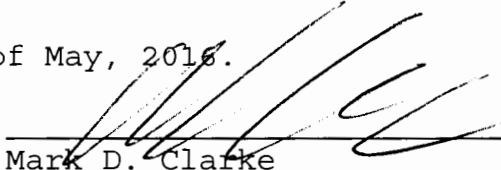
Based on the foregoing, all of the above captioned cases should be dismissed as frivolous and for failure to state a claim. The Clerk is directed to enter a copy of this Findings and Recommendation in each case.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

***Any appeal from an order adopting this Findings and Recommendation or judgment dismissing this case would be***

*frivolous and not taken in good faith. Therefore, plaintiff's  
in forma pauperis status should be revoked.*

DATED this 11 day of May, 2016.

  
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Mark D. Clarke  
United States Magistrate Judge